IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

RCRev..No. 43 of 2007(A)

RCA.226/2005 OF ADDL. DISTRICT COURT-II, KOZHIKODE,
RCP.138/2004 OF ADDL.M.C.,KOZHIKODE-I.
.....

PETITIONER/RESPONDENT/RESPONDENT:

THE ROYAL LINK, A FIRM, REPRESENTED BY ITS PARTNER, MRS. ANNIE ANTONY, AGED 56 YEARS, W/O. E.R.ANTONY, DOOR NO.16/938, KALLAI ROAD, NAGARAM AMSOM AND DESOM, KOZHIKODE TALUK.

BY ADV. SRI.PHILIP ANTONY CHACKO,
SRI.M.R.MOUNEESH.

RESPONDENT/APPELLANT/PETITIONER:

THE MALABAR AND PIONEER HOSIERY (P)LTD., KALLAI ROAD, CALICUT-2, NAGARAM AMSOM AND DESOM, KOZHIKODE TALUK, A COMPANY REGISTERED UNDER THE INDIAN COMPANIES ACT, REPRESENTED BY ITS EXECUTIVE DIRECTOR, SRI. V.K.ERADI, AGED 80 YEARS, S/O. KRISHNAN MOOSAD.

BY ADV. SRI.V.V.SURENDRAN,
SRI.P.A.HARISH,
SRI.K.B.SIVARAMAKRISHNAN.

THIS RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON 04/06/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B. KOSHY and K.P.BALACHANDRAN, JJ.

R.C.R. No. 43 of 2007

Dated this the 4th day of June, 2007

ORDER

Koshy, J.

An eviction petition was filed under section 11 (8) of the Kerala Buildings (Lease and Rent Control) Act (hereinafter referred to as 'the Act'). But, at the time of hearing, the claim was argued under section 11 (3) of the Act and rent control court rejected the application as director of the landlord company was not examined to prove bonafide. The case was argued before the appellate authority with regard to the need under section 11 (8) of the Act. The appellate authority remanded the matter even though the rent control court found that director ought to have been examined. Against the order of remand, this revision application is filed by the tenant. It is submitted by the landlord that there are rent arrears also which is denied by the tenant. On the facts and circumstances of the case and confusion regarding argument under section 11 (3) before the rent control court and under section 11 (8) before the appellate authority, we are of the view that this revision application can be disposed of setting aside the order of remand, but, closing the

matter without prejudice to the right of the landlord in filing a fresh application contending all grounds which are available at the time of filing the petition including grounds taken in the R.C.P. and if such a petition is filed tenant also can take all defences available to them.

Revision petition is disposed of accordingly.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY AND
K.P.BALACHANDRAN, JJ.

R.C.R.NO.43/2007

ORDER

Dated:4th June, 2007